

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ANGEL DAVID MORALES-VALLELLANES,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,
et al.,

Defendants.

CIVIL NO. 97-2459 (JAG) (GAG)

DEFENDANTS' REPLY TO PLAINTIFF'S OPPOSITION

TO THE HONORABLE COURT:

COMES NOW the defendants, through the undersigned and in reply to Plaintiff's Opposition (**Docket Entry No. 231**) states that Defendant's Motion to Compel (**Docket Entry No. 229**) was filed as a result of plaintiff's non-compliance; not only with F.R.C.P. 33 and 34, but with the Court's Orders for the plaintiff to answer the long overdue (almost one year) Defendants' Interrogatories and Request for Production of Documents. It is to be noted that defendants' Motion to Compel did not mention sanctions under F.R.C.P. 37.

Plaintiffs' Answers to Defendants' Interrogatories and Request for Production of Documents were blatantly non-responsive, confusing and evasive. The same were a flagrant disregard to F.R.C.P. 33 and 34, as well as to this Court's previous Orders that directed the plaintiff to answer defendant's long overdue discovery requests.

**ANGEL DAVID MORALES VALLELLANES vs. U.S. POSTAL SERVICE,
et al. - CV 97-2459 (JAG)(GAG) - Defendants' Reply to Plaintiff's Opposition**
Page 2

Plaintiff's opposition incorrectly relies and misplaces Local Rule 26(b). Plaintiff's answers failed to comply with F.R.C.P. 33 and 34. The plaintiff disregarded the discovery rules by failing to submit his answers in conformity with F.R.C.P. 33 and 34. This prompted the defendants to go directly to Court on this issue, related to plaintiff's long overdue answers.

Plaintiff's evasive answers were a per se violation of F.R.C.P. 33 and 34 and this Court's Orders. The Court's Order at **Docket Entry No. 230** now compels the plaintiff to amend and correct his previous answers. The Order is valid, ex proprio vigore, because of plaintiff's previous disregard for the discovery rules. Therefore, Local Rule 26(b) is inapplicable, given the particular circumstances of this long overdue discovery proceeding. Nothing in Local Rule 26(b) takes away the judicial discretion of the Court to issue the Order which is related at **Docket Entry No. 230**.

In sum, the defendants are not looking for sanctions. The defendants understand that plaintiff's counsel has had recent office problems and we sympathize with him. However, this is no excuse for the plaintiff to submit evasive and confusing answers. If the plaintiff needs additional time to submit complete and understandable answers to defendants' discovery requests, there is no objection. What is objectionable is for plaintiff to submit incomplete, confusing and evasive answers that are contrary to the discovery process.

**ANGEL DAVID MORALES VALLELLANES vs. U.S. POSTAL SERVICE,
et al. - CV 97-2459 (JAG)(GAG) - Defendants' Reply to Plaintiff's Opposition**

Page 3

WHEREFORE, the defendants respectfully request that plaintiff's opposition be denied.

I HEREBY CERTIFY that on March 31, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Miguel E. Miranda Gutiérrez, Esquire, PMB 132, 500 Muñoz Rivera Avenue, Local 15, San Juan, Puerto Rico 00918-3349.

RESPECTFULLY SUBMITTED in San Juan, Puerto Rico, this day of April 2005.

H.S. GARCIA
United States Attorney

S/Fidel A. Sevillano Del Río
FIDEL A. SEVILLANO DEL RIO
Assistant U.S. Attorney
U.S.D.C.-PR 117812
Torre Chardón, Suite 1201
350 Carlos Chardón Street
San Juan, Puerto Rico 00918
Telephone: (787) 766-5656/282-1844
Facsimile: (787) 766-6219/5193
E-Mail: Fidel.Sevillano@usdoj.gov